



## State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

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AFSCME COUNCIL 93/LOCAL 3657  
CLAREMONT POLICE EMPLOYEES

Complainant

v.

CITY OF CLAREMONT

Respondent

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CASE NO. P-0733:10

DECISION NO. 97-099

### APPEARANCES

#### Representing AFSCME Council #93:

James Anderson, Staff Representative

#### Representing City of Claremont:

John Yazinski, Esq.

#### Also appearing:

Deputy Chief William Wilmot, City of Claremont  
Barrett Bodkins, City of Claremont  
Albert Stukas, AFSCME  
Melissa Blackwell, AFSCME  
Jennifer Holden, AFSCME

### BACKGROUND

AFSCME Council 93, Local 3657 (Union) filed unfair labor practice charges and related charges against the City of Claremont (City) on June 25, 1997. The Union alleges violations of RSA 273-A:5 I (d), (e), (g), (h), and (i), as well as RSA 273-A:3 I and 273-4. The City responded on August 5, 1997. A hearing was held before the undersigned hearings officer on October 9, 1997 at which time the record was closed.

FINDINGS OF FACT

1. The City of Claremont employs police officers, dispatchers and other personnel in the operation of the Claremont Police Department and thereby is a "public employer" within the meaning of RSA 273-A:1 X.
2. AFSCME Council 93, Local 3657 is the duly certified representative of certain employees including dispatchers who work for the Claremont Police Department.
3. A collective bargaining agreement (CBA) signed by the parties on December 23, 1992 establishes a duration, January 1, 1993 through December 31, 1993, which is followed by automatic renewal from year to year (Joint Exhibit No. 1).
4. The overtime policy of the CBA favors assigning open shifts to employees of the same rank. CBA Article XXI.5 reads, in pertinent part:

Overtime will, as much as possible, be equally divided among all employees, with preference given to full-time employees. First refusal shall be given to employees with the rank commensurate with the overtime, i.e. (1) Communications Specialists: (2) Patrolmen: (3) Shift Supervisors to include Corporals and Sergeants, before members of other superior or inferior ranks are assigned to said duty.

5. The following settlement agreement on the matter of scheduled overtime was signed on January 31, 1997 at the arbitration stage of a grievance (Union Exhibit No. 2):
  1. The Claremont Police Department shall offer Communications Specialists any overtime as a situation warrants prior to offering overtime to other department members to cover dispatching duties. This shall not prohibit Management from filling an open shift through the employment of part-time personnel. Communications Specialists shall have the right of first refusal for shifts needing to be covered before

Management assigns dispatching duties to other personnel. This is limited by the Management rights which permit Management to consider the personal health and safety of Communications Specialists who may have already worked an extended shift, including overtime, as well as the health and safety of the members of the Claremont Police Department and the general public.

2. In the event a Communications Specialist is not available to work in the Communications Department, Management may assign qualified patrol personnel to work in dispatch as long as, in Management's opinion, such assignment will not adversely affect the provision of police services to the city of Claremont.
  
6. When fully staffed, the dispatch center is covered 168 hours per week by four full-time dispatchers and one part-time dispatcher. A full-time dispatcher weekly works a forty-eight hour schedule covering six days. Beginning after February 27, 1997, there were only three full-time dispatchers working covering all shifts as one full-time dispatcher had resigned. The position has since been filled and dispatchers are now given the opportunity to accept or refuse any overtime shift.
  
7. Jennifer Holden was a full-time Communications Specialist or dispatcher employed at the Claremont Police Department for about two years ending in July, 1997. She testified that she recalled seeing the above quoted agreement (Union Exhibit No. 2) posted in the dispatch area. She informed the president of the local, Jack Stukas, that she had not been offered two overtime shifts. She was told by Mr. Stukas to keep a list of dates that overtime was offered to employees other than dispatchers which she did (Union Exhibit No. 3). There were times when Ms. Holden was not offered overtime shifts which followed shifts she had missed because of illness. Some of the dates listed in Union Exhibit No. 3 are not prescheduled overtime but overtime which resulted from Ms. Holden's illness.
  
8. Melissa Blackwell, also a full-time dispatcher, was not offered overtime shifts on her day off because she had told the dispatch center supervisor, Deputy

Chief William T. Wilmot, Jr., that her regular forty-eight hour schedule was plenty since she needed time to be with her two children. Both Jennifer Holden and Melissa Blackwell indicated that they might not have taken the shifts but that they had the right to be asked and to refuse each overtime shift.

9. Barrett Bodkins, a full-time dispatcher who schedules overtime, testified that all full-time dispatchers were given overtime hours in March, 1997 (City Exhibit No. 2). Each dispatcher would have had to work a fifty-six hour week in order that all overtime available because of the resignation (Finding No. 6) be assigned to full-time dispatchers.

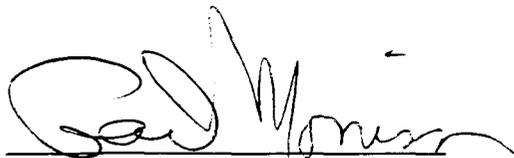
#### DECISION AND ORDER

The collective bargaining agreement, reenforced by the settlement agreement signed on January 31, 1997, requires that dispatchers be offered overtime shifts. It is the option of the dispatcher to accept or refuse overtime shifts. The Claremont Police Department shall take heed of the settlement agreement signed with AFSCME, Local 3657, on January 31, 1997. As therein stated, it shall be the practice that full-time dispatchers will be offered any overtime shifts. The discretion relating to health and safety reserved to management shall be exercised with reason and restraint. Notice of the same shall continue to be posted in the dispatch area.

There is no dispute that some overtime shifts were offered directly to police personnel other than Communications Specialists during the time in question. The Union has not shown that there were withholdings of overtime shifts from dispatchers that rise to the level of abuses of the discretion that has been left to management. Therefore, the unfair labor practice charges and related charges are dismissed.

So ordered.

Signed this 23rd day of October, 1997.



GAIL C. MORRISON  
Hearings Officer